

REMARKS

Claims 1-11 are now pending in the present application. Claims 4, 5, 8, 9 and 11 have been amended. Claims 1, 5, 6, 9 and 11 are independent. Reconsideration of this application, as amended, is respectfully requested.

Objection to the Specification

The Examiner objects to the use of the trademarks TEFLON® and VITON®. As the Examiner will note, the specification has been amended to properly identify the trademarks TEFLON® and VITON® as the registered trademarks. Accordingly, the Examiner's specification objection has been obviated.

It should also be noted that paragraph [0001] has been amended to identify the patent number of the parent application.

Objection to the Claims

Claims 4 and 8 stand objected to for a minor informality. As the Examiner will note, claims 4 and 8 have been amended in order to address the Examiner's rejection. Accordingly, the claim objection has been obviated.

Rejection Under 35 U.S.C. § 112

Claims 4 and 8 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

As the Examiner will note, claims 4 and 8 have been amended to delete the recitation "extending over a widened insert attached to a top of said valve operating rod."

In view of the above amendments and remarks, Applicant respectfully submits that claims 4 and 8 are definite and clear. Accordingly, reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. § 112, second paragraph are respectfully requested.

Rejections Under 35 U.S.C. §§ 102 and 103

Claims 1-3, 6, 7, 9 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ladisch, USPN 4,836,236. Claims 4 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ladisch. These rejections are respectfully traversed.

The present invention is directed to a valve for sampling a process from a tank or conduit. Independent claim 1 recites a combination of elements including "a seal, said seal being formed between a first, upper process side of a bottom wall of said internal cavity and a process side of said diaphragm to isolate said valve actuating rod and the surrounding outside environment from the process." Independent claim 6 recites a combination of elements including "a second static seal, said second static seal being formed between a first, upper process side of said bottom wall of said internal cavity and said first, process

side of said diaphragm to isolate said valve actuating rod and the surrounding outside environment from the process." Independent claim 9 recites a combination of elements including "a seal, said seal being formed between a process side of a bottom wall of said internal cavity and a process side of said sealing tip to isolate said valve actuating rod and the surrounding outside environment from the process." Applicant respectfully submits that the Ladisch reference relied on by the Examiner fails to teach or suggest the present invention as recited in independent claims 1, 6 and 9.

Referring to the Ladisch reference, this reference discloses a valve having an upper housing body 32 and a bonnet 36. A diaphragm 50 is disposed between the bonnet 36 and the upper housing body 32. Referring to FIG. 4 of Ladisch, the process side of the diaphragm 50 is the side that faces the process and is therefore the upper side of the diaphragm 50. The upper side of the diaphragm of 50 of Ladisch forms a seal with a lower surface of the upper housing body 32, since the diaphragm 50 is located between the upper housing body 32 and the bonnet 36. Since the lower surface of the upper housing body 32 does not form a bottom wall, Applicant submits that the seal between the upper surface of the diaphragm 50 and the lower surface of the upper housing body 32 is insufficient to meet the recitation in independent claim 1 of a seal being formed between "a first, upper process side of a bottom wall." In addition, to the extent the Examiner considers the upper surface of the bonnet 36 to be the upper process side of the bottom wall recited in independent claim 1, as can be clearly understood from FIG. 4 of Ladisch, the upper surface of the bonnet 36 forms a seal with a lower surface of the diaphragm 50. Since the

lower surface of the diaphragm 50 is the non-process side of the diaphragm, the seal between the diaphragm 50 and the upper surface of the bonnet 36 fails to meet the recitation of a seal being formed between a first, upper process side of a bottom wall of the internal cavity and a "process side" of the diaphragm. In view of this, the Ladisch reference fails to anticipate independent claim 1 of the present invention.

With regard to independent claim 6, for the same reasons mentioned above with regard to independent claim 1, the Ladisch reference fails to disclose the recitation of a seal formed between "a first, upper process side of said bottom wall of said internal cavity and said first, process side of said diaphragm." Finally, with regard to independent claim 9, the Ladisch reference fails to disclose a seal being formed "between a process side of a bottom wall of said internal cavity and a process side of said sealing tip" as recited in independent claim 9. As mentioned above, the seal in Ladisch is formed between a lower surface of the upper housing body 32 and a process side of the diaphragm 50 and a seal is formed between an upper surface of the bonnet 36 and a non-process side of the diaphragm 50. Accordingly, the Ladisch reference fails to anticipate independent claims 6 and 9 of the present invention as well.

Referring to FIG. 1 of the present invention, the diaphragm 3 includes a process side that faces the process and a non-process side that faces away from the process. A bottom of the diaphragm includes a turned in edge, such that the process side of the diaphragm faces and forms a seal with an upper surface of the pedestal 50, which is a raised portion of the bottom wall 12. Since the process side of the diaphragm 50 of Ladisch does not face

the upper surface of the bonnet 36, Applicant submits that the seal of Ladisch is entirely different from the seal recited in independent claims 1, 6 and 9 of the present invention. Accordingly, the Ladisch reference fails to anticipate these independent claims of the present invention.

With regard to dependent claims 2-4, 7, 8 and 10, Applicant respectfully submits that these claims are allowable due to their respective dependence upon allowable independent claims 1, 6 and 9, as well as due to the additional recitations in these claims.

In view of the above remarks, Applicant respectfully submits that claims 1-4 and 6-10 clearly define the present invention over the Ladisch reference relied on by the Examiner. Accordingly, reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. §§ 102 and 103 are respectfully requested.

Double Patenting

Claims 1-10 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 11-13 of USPN 6,491,283. This rejection is respectfully traversed.

As the Examiner will note, a Terminal Disclaimer has been provided for the Examiner's consideration. The Terminal Disclaimer is in compliance with 37 C.F.R. § 1.321(c) and therefore renders the Examiner's obviousness-type double patenting rejection moot.

Allowable Subject Matter

Claim 11 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant greatly appreciate the indication of the allowable subject matter by the Examiner.

As the Examiner will note, claim 11 has been rewritten in independent form to include all of the limitations of claims 9 and 10. Accordingly, claim 11 should be in condition for allowance. In addition, as the Examiner will note, claim 5 has been presented in independent form to include all of the limitations of independent claim 1. In the Examiner's Office Action, the Examiner did not reject claim 5 in view of the prior art, but only rejected claim 5 under double patenting. In view of this, it is believed that the Examiner considers claim 5 to be directed to allowable subject matter. Accordingly, claim 5 should also be in condition for allowance. Indication of such in the next Office Communication is respectfully requested.

CONCLUSION

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

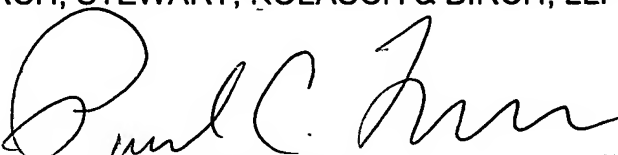
Applicants respectfully petition under the provisions of 37 C.F.R. § 1.136(a) and § 1.17 for a one-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of **\$225.00** is attached hereto.

In the event there are any matters remaining in this application, the Examiner is invited to contact Paul C. Lewis, Registration No. 43,368 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment(s)